UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:23-cv-00106-MR

FRANK I. HALL,)
Plaintiff,)
vs.)) ORDER
BRADLEY DAVIDSON, et al.,)
Defendants.)

THIS MATTER is before the Court on Plaintiff's proposed Subpoenas [Doc. 33], which the Court construes as a motion to serve subpoenas; Plaintiff's "Motion for Issuance of Subpoena Duces Tecum for Medical Records" [Doc. 34]; and Plaintiff's "Request for Subpoena" [Doc. 35].

Pro se Plaintiff Frank I. Hall ("Plaintiff") is a prisoner of the State of North Carolina currently incarcerated at Alexander Correctional Institution in Taylorsville, North Carolina. On February 21, 2023, Plaintiff filed this action pursuant to 42 U.S.C. § 1983. [Doc. 1]. After amending his Complaint, Plaintiff's Fourth Amendment individual capacity excessive force claims against Defendants Bradley Davidson, Talmadge Legrand, and Cuong Phan, Wadesboro Police Department Officers; and Defendant Jonathan Williams with the Anson County Sheriff's Office, passed initial review. [Docs.

15, 16; <u>see</u> Docs. 19, 25]. On August 14, 2023, the Court entered its Pretrial Order and Case Management Plan (PTOCMP), setting the discovery deadline for December 8, 2023. [Doc. 27]. On October 11, 2023, Plaintiff filed the proposed Subpoenas now before the Court. [Doc. 33]. Plaintiff's Subpoenas are directed to the Wadesboro Police Department and the Anson County Sheriff's Office, respectively. [See Doc. 33 at 1, 4]. In them, he requests:

[C]opies of all discovery documents, records, reports pertaining to case file no. (20CR050437; 20CR050438) of May 26, 2020 incident. (Official Internal Affairs investigation documents, body cam footage, dash cam footage, official incident reports, official ballistic reports, names of all assisting officers at and on scene during shooting[, and] any & all crime scene photos).

[ld.]. Thus, it appears Plaintiff is attempting to conduct discovery in this matter through subpoenas on non-parties to the action, rather than through discovery requests on the parties. Plaintiff has not indicated that the parties have refused to produce any of the documents he seeks in these proposed Subpoenas. While the Court typically orders the U.S. Marshal to serve subpoenas on behalf of indigent litigants, the Court will deny Plaintiff's motion to serve subpoenas without prejudice to Plaintiff renewing the motion should Defendants fail to produce discoverable materials on Plaintiff's proper requests. Plaintiff is directed to the Court's Order of Instructions [Doc. 7] and

PTOCMP [Doc. 27] in this case regarding the conduct of discovery.

Plaintiff has also filed a motion asking the Court for an order for the issuance of a subpoena to Carolina Medical Center Atrium Health for medical records. The Court will deny this motion. It is Plaintiff's responsibility to prepare subpoenas in this matter and send them to the Court with a motion requesting that the Court direct the U.S. Marshal to serve them on Plaintiff's behalf. To that end, the Court will direct the Clerk to send Plaintiff a blank subpoena to complete and return to the Court with the proper motion.

Finally, Plaintiff filed a "Request for Subpoena" in which he asks the Court to "command" the three listed individuals "to produce copies and permit inspection and copying" of certain documents, some of which are Plaintiff's medical records. [Doc. 35]. The Court will deny Plaintiff's request. Again, it is Plaintiff's responsibility to prepare and submit any subpoenas he wants served with a proper motion requesting their service. The Court will direct the Clerk to send Plaintiff blank subpoenas for this purpose.

ORDER

IT IS, THEREFORE, ORDERED that Plaintiff's Motions [Docs. 33, 34, 35] are **DENIED** in accordance with the terms of this Order.

¹ Plaintiff is admonished that his medical records will not be released without proper signed authorizations to release such records, which should be included with his Subpoenas.

The Clerk is respectfully instructed to send Plaintiff six (6) blank Subpoenas Duces Tecum.

IT IS SO ORDERED.

Signed: November 6, 2023

Martin Reidinger

Chief United States District Judge